

SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE

RULES OF COURT
RULE CHANGES EFFECTIVE 7-1-09

1.11 REQUESTING AND USE OF AUDIO/VISUAL/PRESENTATION EQUIPMENT *(Effective 7-1-09)*

(a) To coordinate external requests for the use of audio/visual presentation equipment in Butte County Superior Court, the following procedure shall apply at all court facilities.

- 1. Parties who require the use of the Court's Audio/Visual equipment shall complete a "Request for Courtroom Audio/Visual Presentation Equipment" [RUL-1-GR.030] and submit the completed form to Court Administration no later than five (5) business days before the date the equipment is to be utilized. In the event the court date is set less than five (5) business days before the hearing, the request must be made at the time the hearing is set or by the close of business on that day.*
- 2. Parties who require the use of non-court provided equipment must confirm with Court Administration or the Supervising Court Attendant that the equipment is working properly and is compatible with any court equipment that might also be used, prior to the start of the hearing. It is not the responsibility of Butte County Superior Court staff, or Sheriff's Deputies to assist in operating or setting up of non-court provided equipment. If a party is unable to operate, connect or, set up non-court provided equipment in a reasonable period of time, as determined by the judicial officer presiding over the matter, the matter will proceed without use of the equipment.*
- 3. The Court has limited audio/visual presentation equipment. In the event there are concurrent requests to use specific equipment, the equipment will be provided on a first-come, first-served basis unless other priority is determined by the Presiding Judge.*

12.10 Conservatorships (*Effective 7-1-98, as amended 1-1-03, as amended 7-1-09*)

(i) **ACCOUNTINGS**

- A. *The conservator or successor conservator may either arrange to pick up the original lodged confidential supporting documents or provide a self-addressed stamped envelope for their return upon final determination and approval of the conservator's account by the court.*

12.11 Guardianships (*Effective 7-1-09*)

(a) **Reserved**

(b) **Reserved**

(c) **Reserved**

(d) **Reserved**

(e) **Reserved**

(f) **Reserved**

(g) **Reserved**

(h) **Reserved**

(i) **ACCOUNTINGS**

- A. *The guardian or successor guardian may either arrange to pick up the original lodged confidential supporting documents or provide a self-addressed stamped envelope for their return upon final determination and approval of the guardian's account by the court. (Effective 7-1-09)*

LOCAL RULE 14 ATTORNEY FEES & COST REIMBURSEMENT *(Effective 1-1-91, title amended 7-1-99, as amended 7-1-09)*

~~The following attorney fees shall, under normal circumstances, be awarded by the Court to court-appointed attorneys for reasonably necessary legal services rendered in the Superior Court of California, County of Butte. —(Effective 1-1-91, as amended 7-1-99)~~

14.1 EXCEPT IN CAPITAL CRIMINAL CASES ~~—(Effective 1-1-91, as amended 7-1-01)~~ **APPLICABILITY**
(Effective 7-1-09)

The following attorney fees shall, under normal circumstances and in compliance with the rules set forth below, be awarded by the Court to court-appointed attorneys for reasonably necessary legal services rendered in the Superior Court of California, County of Butte. (Effective 7-1-09)

~~(a) — For reasonably necessary out of court work, such as consultation, research, discovery and general preparation, and reasonably necessary court appearances before trial, \$65.00 per hour.~~

~~(b) — For trial, \$65.00 per hour.~~

~~(c) — Fees are not payable for "waiting time", including deliberations, which can be utilized by library work on other matters. The Court will also not allow travel time to and from court.~~

~~(d) — Expenses reasonably and necessarily incurred by counsel, including costs for service of process, long distance telephone calls and copies of documents normally should be reimbursed. As to copies of court documents, the attorney can be reimbursed at whatever rate the Clerk of the Court's office charges to make copies. Receipts are required for reimbursement of these expenses. As to any other copies, a rate of 10 cents per page will be allowed. The Court will not pay for attorney time in making copies. Counsel incur any and all expenses at their own risk unless previous order of the Court is obtained authorizing such expenses. This is particularly true of investigative services and expert witnesses, which should not be obtained without express prior authorization from the Court. Such funds shall be paid upon presentation of an itemized billing, including receipts for expenses, and "Butte County Claim for Professional Services". Claims are to specify an hourly rate and are not to exceed the total amount authorized by the Court. Such items as parking fees, mileage from offices to the courthouse, local telephone calls or pro rata office expenses will not be allowed. Actual expenses shall not exceed the rate specified by local ordinance or, if none, the rate specified by the State Board of Control under Title 2, Division 2, Chapter 1, California Administrative Code.~~

~~(e) — WITNESSES. Other than in privately retained counsel cases, it is the obligation of the attorney subpoenaing a witness to obtain and prepare a Butte County Claim Form and have the witness sign the claim. The attorney shall then present the claim to the Court's Administrative Office for processing for payment. —(Effective 1-1-91, as amended 7-1-01)~~

14.2 ATTORNEY FEE REIMBURSEMENT EXCEPT IN CAPITAL CRIMINAL CASES *(Effective 7-1-09)*

~~In capital criminal cases, the fee for trial shall be determined by the Court and the fee for other reasonably necessary expenses and legal services shall be computed in accordance with LR §14.1. —(Effective date 1-1-91)~~

- (a) *For reasonably necessary out-of-court work, such as consultation, research, discovery and general preparation, and reasonably necessary court appearances before trial, the court will authorize reimbursement at a rate of \$65.00 per hour.*
- (b) *The Court will authorize reimbursement for trial at a rate of \$65.00 per hour.*
- (c) *The Court will authorize reimbursement for post trial work at a rate of \$65.00 per hour.*
- (d) *Fees are not payable for "waiting time", including deliberations, which can be utilized by for library work on other matters. The Court will not authorize reimbursement for travel time to and from court.*
- (e) *The fee reimbursements specified above exclude attorneys under contract with the county or the court to provide such services and representations unless approved by the court in advance and upon a showing of good cause. (Effective 7-1-09)*

14.3 ~~CLAIM FOR FEES AND REIMBURSEMENT OF EXPENSES~~ (Effective date 1-1-91, as amended date 7-1-98) *ATTORNEY COST REIMBURSEMENT EXCEPT IN JUVENILE DEPENDENCY, FAMILY CODE §3150 APPOINTMENTS AND CAPITAL CRIMINAL CASES* (Effective 7-1-09)

~~A final claim for attorney fees or for reimbursement of expenses shall be submitted to the Presiding Judge or to any Judge designated by the Presiding Judge on a form furnished by the Clerk of the Court, not later than thirty (30) days after completion of the legal services. However, interim billings must also be submitted every 60 days, during the pendency of the proceeding. Failure by an attorney to comply with this requirement shall, except for good cause shown, be deemed a waiver of the claim. The claim shall include an itemized statement of the services rendered, the time devoted to and the sum requested for each item of service, the items and amounts of reasonably necessary expenses incurred, with receipts verifying such expenses attached, and the total amount requested by such attorney. (Effective date 1-1-91, as amended date 7-1-98)~~

- (a) *Unless an order of the Court is obtained authorizing the expenses referenced above, including investigative services and/or expert witness fees, counsel incur any and all expenses at their own risk. Expenses that depart from the current Butte County protocol and guidelines except for extraordinary circumstances shown will not be authorized.*
- (b) *Expenses reasonably and necessarily incurred by counsel, including costs for investigative services and/ or expert witness(es) are eligible to be reimbursed. Prior authorization of the court and proper documentation that costs were incurred are required prior to reimbursement.*
- (c) *For copies of court documents, the attorney is eligible to be reimbursed at the same rate the Clerk of the Court's office charges to make copies.*
- (d) *For any other copies, the attorney is eligible to be reimbursed at a rate of 10 cents per page. Attorney time to make the copies is not reimbursable.*
- (e) *Reimbursement for items such as parking fees, mileage from offices to the courthouse, local telephone calls or pro rata office expenses will not be allowed.*
- (f) *Prior to incurring investigative, or other expert fees and/or other costs, the form of order presented for authorization must be accompanied by a declaration in support thereof, and shall contain the following language:*

“The cost(s) and expense(s) of such service(s) or examination(s) shall not exceed _____ (which is the dollar amount indicated by the Court on each Ex Parte Appointment Order). The Court finds that the cost(s) for expert service(s) is/are a legitimate expense of the County of Butte and will be paid by the County of Butte upon written certification by the Butte County Superior Court that the expenses have been incurred.” (Effective 7-1-09)

14.4 PRESENTATION OF CLAIMS (Effective 7-1-09)

(a) *A request for reimbursement shall be paid upon presentation of an itemized billing attached to or listed on a completed Butte County Claim for Professional Services, with attached receipts for expenses, and a copy of the court order that previously authorized the expenditure(s). The Claim must specify the case number, an hourly rate, the number of hours billed, and shall not to exceed the total amount previously authorized by the Court. The attorney shall then present the claim to the County's Administrative Office for processing for payment.*

(b) *WITNESSES. Other than in privately retained counsel cases, it is the obligation of the attorney subpoenaing a witness to obtain and prepare a Butte County Claim Form and have the witness sign the claim. The attorney shall then present the claim to the County's Administrative Office for processing for payment. (Effective 7-1-09)*

14.5 CAPITAL CRIMINAL CASES (Effective 7-1-09)

In capital criminal cases, the fee for trial shall be determined by the Court and the fee for other reasonably necessary expenses and legal services shall be computed in accordance with LR 14.3. (Effective 7-1-09)

14.6 JUVENILE DEPENDENCY AND FAMILY CODE §3150 APPOINTMENTS CASES
(Effective 7-1-09)

(a) *For Juvenile Dependency conflict counsel, and Family Code §3150 appointments, reimbursement for attorney fees shall be authorized in accordance with LR 14.2. Other reasonably necessary expenses, including investigative and other expert services, shall be authorized in accordance with LR 14.3(a) through LR 14.3(e).*

(b) *Prior to incurring investigative, or other expert fees and/or other costs, the form of order presented for authorization must be accompanied by a declaration in support thereof, and shall contain the following language:*

“The cost(s) and expense(s) of such service(s) or examination(s) shall not exceed _____ (which is the dollar amount indicated by the Court on each Ex Parte Appointment Order). The Court finds that the cost(s) for expert service(s) is/are a legitimate expense of the Superior Court of California, County of Butte and will be paid by the Court upon written certification that the expenses have been incurred.”

(c) *A request for reimbursement shall be paid upon presentation of an itemized billing attached to or listed on a completed Butte County Superior Court Claim for Professional Services, with attached receipts for expenses and a copy of the court order that previously authorized the*

expenditure. The claim must specify the case number, an hourly rate, the number of hours billed, and shall not exceed the total amount previously authorized by the Court. The attorney shall then present the claim to the Court's Administrative Office for processing for payment. (Effective 7-1-09)

~~14.4~~ 14.7 PROFESSIONAL LIABILITY INSURANCE *(Effective date 1-1-02, renumbered 7-1-09)*

Attorneys appointed pursuant to this Rule shall secure malpractice (Errors and Omissions) coverage in the amount of One Hundred Thousand dollars (\$100,000) per occurrence; Three hundred thousand (\$300,000) aggregate. *(Effective date 1-1-02, renumbered 7-1-09)*

~~14.5~~ 14.8 ATTORNEY FEES IN ACTIONS ON PROMISSORY NOTES, CONTRACTS PROVIDING FOR PAYMENT OF ATTORNEY FEES, AND FORCLOSURES *(Effective date 7-1-99, renumbered 7-1-09)*

The following attorney fees shall, under normal circumstances, be awarded in actions on promissory notes, contracts providing for the payment of attorneys' fees and foreclosures:

(a) **DEFAULT ACTION ON NOTE OR CONTRACT.** Exclusive of costs:

25 percent of first \$1,000 with minimum fee of \$150

20 percent of next \$4,000

15 percent of next \$5,000

10 percent of next \$10,000

5 percent of next \$30,000

2 percent of the amount over \$50,000

In an action upon contract providing for an attorney fee, the clerk shall include in the judgment an attorney fee in accordance with this schedule, not to exceed the amount prayed for.

(b) **CONTESTED ACTION ON NOTE OR CONTRACT.** The same amount as computed under subdivision (a), increased by such reasonable compensation computed on an hourly or per-day basis for any additional research, general preparation, trial, or other services as may be allowed by the Court.

(c) **FORECLOSURE OF MORTGAGE OR TRUST DEED.** The same amount as computed under subdivision (a) or (b), increased by 10 percent.

(d) **FORECLOSURE OF ASSESSMENT OR BOND LIEN RELATING TO A PUBLIC IMPROVEMENT.** The same amount as computed under subdivision (a) or (b), except that the minimum fee shall be \$75 in an action involving one assessment or bond, and an additional \$20 for each additional assessment or bond being foreclosed in the same action. *(Effective date 7-1-99, renumbered 7-1-09)*

16.5 RESTRAINING ORDERS, ORDERS SHORTENING TIME/EX PARTE ORDERS

(Effective date 7-1-90, as amended 01-01-04, as amended 7-1-04, as amended 7-1-09)

{COMMENT: CRC 3.1200-3.1207 (civil law and motion rules) set forth the notice requirements (1 day notice) for ex parte applications for orders unless otherwise provided by statute or rule. FC §§ 246 and 6326 read in part "An ex parte restraining order shall be issued or denied on the same day the application is submitted to the court..." Local Rule 16.5 provides a procedure that contains notice requirements and satisfies the 'same day' mandates of FC §§ 246 and 6326. Note: CRC 3.1103(a)(1) exempts family law from civil law and motion rules... including CRC 3.1200-1207}

(a) **CONTESTED REQUESTS FOR TRO'S.** The Court will not, except upon a clear showing of necessity made by affidavit or declaration, issue ex parte orders in a domestic violence, civil harassment, uniform parentage or dissolution action without notice to the opposing party or counsel that a hearing may be held to oppose the application for temporary restraining orders and the process to oppose. Moving papers must be filed by 11:00 a.m. in order to have a hearing at 3:00 p.m. that day.

(b) ~~Absent showing good cause, the time periods of California Rule of Court 3.1200-3.1207 will govern notice requirements. If good cause is shown, n~~ **Notice** shall be given no later than 11:00 a.m. the day relief is sought. The opposing party may request such a hearing by contacting the Court Clerk's office at (530) 532-7008 by 1:00 p.m. on the date the application is filed. Hearings will be scheduled for 3:00 p.m. that same day, or as soon thereafter as they may be called. If the Clerk's Office does not receive a request for a hearing from the opposing party by 1:00 p.m., the ex parte application for temporary restraining order will be submitted to a Judicial Officer for review and issuance of appropriate orders, if any. The moving party may contact the Clerk's office after 2:00 p.m. to inquire whether the opposing party has contacted the Clerk and requested a hearing to oppose the temporary restraining order and what time the moving party will have to appear at such a hearing.

In every case where an ex parte order is being requested, a declaration in the format set forth in form RUL16-FL.010 shall be filed.

[COMMENT: It is preferable to obtain an order shortening time for an early hearing.]

(c) **SUPPORTING DECLARATIONS - REQUESTS FOR TEMPORARY ORDERS & ORDER SHORTENING TIME.**

1. **EX PARTE ORDERS: ~~TEMPORARY ORDERS~~.** All requests for temporary orders in domestic violence, civil harassment, paternity or dissolution action must include a declaration setting forth the reasons why an order shortening time for service and/or hearing will not suffice in lieu of an ex parte order pending hearing. [See RUL-16-FL-.010]

A. **EX PARTE ORDERS AFFECTING CUSTODY AND VISITATION** Ex parte requests for modification of existing custody and visitation orders or for custody and visitation orders will not issue absent a clear showing of risk of immediate harm to the child(ren), or immediate risk the child(ren) will be removed from the State of California. The showing must be made by affidavit or declaration and shall include a full, detailed description of the most recent incident(s) of physical harm, threats of harm or threats to remove the child(ren) from the state and must specify the date of each incident. There is an absolute duty to advise the Court, in the supporting declaration, what the existing custody and visitation arrangement is and how it will be

changed by the requested ex parte order. Further, if there is an existing Court order relative to child custody and visitation, the date of and provisions of that order must be set forth as part of the supporting declaration.

B. EX PARTE ORDERS; RESIDENCE EXCLUSION. Ex parte requests for an order excluding the other party or parties from the family residence or common dwelling of the parties will not issue absent a clear showing by declaration or affidavit, that the moving party: [1] has a right, under color of law, to possession of the premises; [2] that the party to be excluded has assaulted or threatens to assault the moving party or anyone under the moving party's care, custody and control, or a minor child of the parties (include the date of each occurrence), and [3] that unless the order to exclude is made, future physical or emotional harm would result to the moving party or persons in his/her care, custody and control.

C. EX PARTE ORDERS: TEMPORARY CONTROL OF PROPERTY. Ex parte requests for temporary use and possession of real or personal property must be supported by an affidavit or declaration clearly setting forth the moving party's need for such items, what hardship, if any, granting such an order will have on the other party and must include the status quo as to the use and possession of the subject property.

2. ORDER SHORTENING TIME. No request for ex parte order shortening time shall be submitted without a supporting declaration setting forth specific facts to support the need to shorten time for service and/or the hearing.

(d) Ex parte orders are rarely granted without giving the opposing party an opportunity to be heard because the temptation to indulge in unrestrained exaggeration is ever-present. Concealment of relevant facts is a danger. ACCORDINGLY, ATTORNEYS, PARTIES AND PERSONS EMPLOYED TO TYPE PLEADINGS ("TYPING SERVICES") SHALL ADHERE TO THE HIGHEST STANDARDS OF TOTAL HONESTY AND FULL DISCLOSURE IN PREPARING THE DECLARATIONS IN SUPPORT OF EX PARTE ORDERS.

(e) See Local Rule 19 for Domestic Violence Coordination Rules and Issuance and Enforcement of Restraining Orders rules. *(Effective date 7-1-90, as amended 01-01-04, as amended 7-1-04, as amended 7-1-09)*